

## Title 63A, Chapter 8, Office of State Debt Collection

### 63A-8-101. Definitions.

As used in this chapter:

- (1) (a) "Accounts receivable" or "receivables" means any amount due the state from an entity for which payment has not been received by the state agency that is servicing the debt.
- (b) "Accounts receivable" includes unpaid fees, licenses, taxes, loans, overpayments, fines, forfeitures, surcharges, costs, contracts, interest, penalties, restitution to victims, third-party claims, sale of goods, sale of services, claims, and damages.
- (2) "Administrative offset" means:
  - (a) a reduction of an individual's tax refund or other payments due to the individual to reduce or eliminate accounts receivable that the individual owes to the state; and
  - (b) a reduction of an entity's tax refund or other payments due to the entity to reduce or eliminate accounts receivable that the entity owes to the state.
- (3) "Entity" means an individual, a corporation, partnership, or other organization that pays taxes to or does business with the state.
- (4) "Office" means the Office of State Debt Collection established by this chapter.
- (5) "Past due" means any accounts receivable that the state has not received by the payment due date.
- (6) (a) "State agency" includes any department, division, commission, council, board, bureau, committee, office, or other administrative subunit of Utah state government, including the legislative and judicial branches of state government.
- (b) "State agency" does not include:
  - (i) any institution of higher education; or
  - (ii) except in Subsection 63A-8-201(7)(g), the State Tax Commission.
- (7) "Writing-off" means the removal of an accounts receivable from an agency's accounts receivable records but does not necessarily eliminate further collection efforts.

### 63A-8-201. Office of State Debt Collection created -- Duties.

- (1) The state and each state agency shall comply with the requirements of this chapter and any rules established by the Office of State Debt Collection.
- (2) There is created the Office of State Debt Collection in the Department of Administrative Services.
- (3) The office shall:
  - (a) have overall responsibility for collecting and managing state receivables;
  - (b) develop consistent policies governing the collection and management of state receivables;
  - (c) oversee and monitor state receivables to ensure that state agencies are:
    - (i) implementing all appropriate collection methods;
    - (ii) following established receivables guidelines; and
    - (iii) accounting for and reporting receivables in the appropriate manner;
  - (d) develop policies, procedures, and guidelines for accounting, reporting, and collecting monies owed to the state;
  - (e) provide information, training, and technical assistance to all state agencies on various collection-related topics;
  - (f) write an inclusive receivables management and collection manual for use by all state agencies;
  - (g) prepare quarterly and annual reports of the state's receivables;
  - (h) create or coordinate a state accounts receivable database;
  - (i) develop reasonable criteria to gauge state agencies'

- efforts in maintaining an effective accounts receivable program;
  - (j) identify those state agencies that are not making satisfactory progress toward implementing collection techniques and improving accounts receivable collections;
  - (k) coordinate information, systems, and procedures between state agencies to maximize the collection of past-due accounts receivable;
  - (l) establish an automated cash receipt process between state agencies;
  - (m) establish procedures for writing off accounts receivable for accounting and collection purposes;
  - (n) establish standard time limits after which an agency will delegate responsibility to collect state receivables to the office or its designee;
  - (o) be a real party in interest for an account receivable referred to the office by any state agency; and
  - (p) allocate monies collected for judgments registered under Section 77-18-6 in accordance with Sections 51-9-402, 63A-8-302, and 78A-5-110.
- (4) The office may:
    - (a) recommend to the Legislature new laws to enhance collection of past-due accounts by state agencies;
    - (b) collect accounts receivables for higher education entities, if the higher education entity agrees;
    - (c) prepare a request for proposal for consulting services to:
      - (i) analyze the state's receivable management and collection efforts; and
      - (ii) identify improvements needed to further enhance the state's effectiveness in collecting its receivables;
    - (d) contract with private or state agencies to collect past-due accounts;
    - (e) perform other appropriate and cost-effective coordinating work directly related to collection of state receivables;
    - (f) obtain access to records of any state agency that are necessary to the duties of the office by following the procedures and requirements of Section 63G-2-206;
    - (g) collect interest and fees related to the collection of receivables under this chapter, and establish, by following the procedures and requirements of Section 63J-1-303:
      - (i) a fee to cover the administrative costs of collection, on accounts administered by the office;
      - (ii) a late penalty fee that may not be more than 10% of the account receivable on accounts administered by the office;
      - (iii) an interest charge that is:
        - (A) the postjudgment interest rate established by Section 15-1-4 in judgments established by the courts; or
        - (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts receivable for which no court judgment has been entered; and
      - (iv) fees to collect accounts receivable for higher education;
    - (h) collect reasonable attorney fees and reasonable costs of collection that are related to the collection of receivables under this chapter;
    - (i) make rules that allow accounts receivable to be collected over a reasonable period of time and under certain conditions with credit cards;
    - (j) file a satisfaction of judgment in the district court by following the procedures and requirements of the Utah Rules of Civil Procedure;

- (k) ensure that judgments for which the office is the judgment creditor are renewed, as necessary; and
- (l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f) with private sector vendors under contract with the state to assist state agencies in collecting debts owed to the state agencies without changing the classification of any private, controlled, or protected record into a public record.
- (5) The office shall ensure that:
  - (a) a record obtained by the office or a private sector vendor as referred to in Subsection (4)(l):
    - (i) is used only for the limited purpose of collecting accounts receivable; and
    - (ii) is subject to federal, state, and local agency records restrictions; and
  - (b) any person employed by, or formerly employed by, the office or a private sector vendor as referred to in Subsection (4)(l) is subject to:
    - (i) the same duty of confidentiality with respect to the record imposed by law on officers and employees of the state agency from which the record was obtained; and
    - (ii) any civil or criminal penalties imposed by law for violations of lawful access to a private, controlled, or protected record.
- (6) (a) The office shall collect accounts receivable ordered by the district court as a result of prosecution for a criminal offense that have been transferred to the office under Subsection 76-3-201.1(5)(h) or (8).
- (b) The office may not assess the interest charge established by the office under Subsection (4) on an account receivable subject to the postjudgment interest rate established by Section 15-1-4.
- (7) The office shall require state agencies to:
  - (a) transfer collection responsibilities to the office or its designee according to time limits established by the office;
  - (b) make annual progress towards implementing collection techniques and improved accounts receivable collections;
  - (c) use the state's accounts receivable system or develop systems that are adequate to properly account for and report their receivables;
  - (d) develop and implement internal policies and procedures that comply with the collections policies and guidelines established by the office;
  - (e) provide internal accounts receivable training to staff involved in their management and collection of receivables as a supplement to statewide training;
  - (f) bill for and make initial collection efforts of its receivables up to the time the accounts must be transferred; and
  - (g) submit quarterly receivable reports to the office that identify the age, collection status, and funding source of each receivable.
- (8) The office shall use the information provided by the agencies and any additional information from the office's records to compile a one-page summary report of each agency.
- (9) The summary shall include:
  - (a) the type of revenue that is owed to the agency;
  - (b) any attempted collection activity; and
  - (c) any costs incurred in the collection process.
- (10) The office shall annually provide copies of each agency's summary to the governor and to the Legislature.

#### **63A-8-203. Legal services.**

The Office of the Attorney General shall:

- (1) provide to the office all legal services and advice related to the collection of accounts receivable owed to the state; and

- (2) establish policies governing:
  - (a) legal matters involving accounts receivable; and
  - (b) litigation of past-due accounts receivable.

#### **63A-8-204. Rulemaking authority -- Collection techniques.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the office shall make rules:

- (1) providing details, as necessary, for the distribution of debts collected in accordance with the priorities under Subsection 63A-8-301(3); and
- (2) to govern collection techniques, which may include the use of:
  - (a) credit reporting bureaus;
  - (b) collection agencies;
  - (c) garnishments;
  - (d) liens;
  - (e) judgments; and
  - (f) administrative offsets.

#### **63A-8-301. State Debt Collection Fund.**

- (1) There is created a restricted special revenue fund entitled the "State Debt Collection Fund."
- (2) The fund consists of:
  - (a) all amounts appropriated to the fund under this chapter;
  - (b) fees and interest established by the office under Subsection 63A-8-201(4)(g); and
  - (c) except as otherwise provided by law, all postjudgment interest collected by the office or the state except postjudgment interest on restitution.
- (3) Monies in this fund shall be used to pay for:
  - (a) the costs of the office in the performance of its duties under this chapter;
  - (b) restitution to victims to whom the debt is owed;
  - (c) interest accrued that is associated with the debt;
  - (d) principal on the debt to the state agencies or other entities that placed the receivable for collection; and
  - (e) other legal obligations including those ordered by a court.
- (4) (a) The fund may collect interest.
- (b) All interest earned from the fund shall be deposited in the General Fund.
- (5) The office shall ensure that monies remaining in the fund at the end of the fiscal year that are not committed under the priorities established under Subsection (3) are deposited into the General Fund.
- (6) (a) The office shall report at least annually to the appropriations subcommittee assigned to review the budget of the Department of Administrative Services on the fund balance and its revenues and expenditures and administrative offsets.
- (b) The report shall include the amounts paid under each provision under Subsection (3).

#### **63A-8-302. Allocation of funds.**

- (1) Except as provided in Subsection (2), the monies collected by the office less the office's fees shall be allocated on a prorated basis to the various revenue types that generated the accounts receivable.
- (2) Notwithstanding the requirements of Subsection (1):
  - (a) federal cost allocation requirements for specific accounts receivable related to programs that are supported by federal funds take precedence over other cost allocation methods provided in this section; and
  - (b) the office shall use interest and fees collected on past due accounts receivable as provided in Section 63A-8-301.

X:\XFER\INT\2008\00000943.wpd